HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.34752 of 1997

Dated 21st Day of March, 2007

Between:

K. Dasaradhaiah .. Petitioner

And

The District Collector,
Chittoor District, Chittoor
and four others ..
Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the proceedings dated 26.8.1997 issued by the 1st respondent-District Collector, as arbitrary and illegal.

The brief facts of the case are that the petitioner has an extent of Ac.0.90 cents of land in S.No.160 situated in Thondambattu village and a channel is passing through his land. Initially the 4th respondent-Mandal Revenue Officer granted permission to the 5th respondent to lay pipeline in the channel, which is passing through the petitioner's land. On a representation filed by the petitioner, the 3rd respondent-Revenue Divisional Officer set aside the permission granted to the 5th respondent. Suppressing this fact, the 5th respondent submitted another representation before the 1st respondent-District Collector for grant of permission for laying pipeline in the channel. Now, the petitioner's grievance is that the Collector, without conducting any enquiry and without giving any opportunity to him to explain his case, issued proceedings dated 26.8.1997 granting permission to the 5th respondent, and further directed the 4th respondent-Mandal Revenue Officer to provide protection to the 5th respondent if required, and in pursuance of the orders of the 1st respondent, the 5th respondent is trying to lay pipeline through the land in question.

Heard the learned counsel for the petitioner.

The respondents 1 to 4 have filed counter affidavit wherein it is stated that even though it is a patta land, there is a plan marked channel in it and the permission is granted to lay underground pipeline through that channel.

The learned counsel for the petitioner has produced a copy of the proceedings dated 12.6.1997 issued by the 3rd respondent-Revenue Divisional Officer, Tirupati which reveals that on a representation made by the petitioner, the permission granted by the Mandal Revenue officer to the 5th respondent was set aside. But, the 5th respondent, suppressing this fact, filed a petition before the Collector, who, without considering the order passed by the Revenue Divisional Officer, permitted him to lay pipeline.

Having perused the proceedings dated 26.8.1997 of the Collector, this Court is of the view that evidently these factual aspects were not brought to the notice of the Collector, and hence, the impugned proceedings are liable to be set aside.

In the result, the writ petition is allowed setting aside the proceedings dated 26.8.1997. However, the 1st respondent-District Collector is hereby directed to consider the proceedings dated 12.6.1997 of the 3rd respondent-Revenue Divisional Officer and pass appropriate orders in accordance with law. It is left open to the petitioner to raise all contentions before the Collector. No costs.

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21.03.2007

bcj